



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

On January 25, 2017, the Tenant submitted an Application for Dispute Resolution asking that a 1 Month Notice to End Tenancy for Cause (“the Notice”) be cancelled.

The matter was set for a conference call hearing. The Landlord and Tenant appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. The Tenant testified that he received the Landlord’s documentary evidence. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

- Has the Tenant breached the Act or the tenancy agreement by repeatedly paying rent late?

### Background and Evidence

The parties testified that the tenancy began on December 1, 2015, and is a month to month tenancy. Rent in the amount of \$1,000.00 is to be paid on the first of each month. The Tenant paid the Landlord a security deposit of \$500.00.

The Landlord testified that the Tenant has been late paying the rent six times since March 2016. The Landlord provided a copy of a statement of account regarding the Tenant’s rent payment history. The statement of account shows the six late rent payments within the last 12 months.

The Landlord issued the Tenant a 1 Month Notice to End Tenancy for Cause dated January 17, 2017. The effective date that the Tenant must move out is stated as February 18, 2017. The reason for ending the tenancy is listed as

- Tenant is repeatedly late paying rent

The Landlord testified that the 1 Month Notice was posted to the Tenant's door on January 17, 2017.

The Tenant testified that one late payment was due to the Landlord moving their office, but he does not dispute that he has repeatedly paid his rent late.

The Tenant testified that he is having financial issues, and mental health issues that are making it difficult for him to pay his rent on time.

The Landlord acknowledged that the Landlord did move the location of their office and the Tenant attends the office to pay the rent.

### Analysis

With respect to the issue in the Notice regarding late payment of rent, section 47 of the Act states that a Landlord may end a tenancy by giving a Notice to end the tenancy if the Tenant is repeatedly late paying rent.

The Residential Tenancy Policy Guideline #38 with respect to repeated late payment of rent sets out that three late payments are the minimum number sufficient to justify a notice to end tenancy.

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I find that the Tenant was repeatedly late paying rent on five occasions within a one year period of time. I have considered the Tenant's explanation for the late payments; however, the Tenant is required to pay the rent when it is due under the tenancy agreement and the Landlord wishes to end the tenancy.

I find that the Landlord has cause to end the tenancy due to late rent payments.

I dismiss the Tenant's Application to cancel the 1 Month Notice dated January 17, 2016.

The effective date on the 1 month Notice is incorrect and pursuant to section 53 of the Act the date automatically changes to February 28, 2016.

Under section 55 of the Act, when a Tenant's application to cancel a Notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 52 of the Act regarding form and content, I must grant the Landlord an order of possession.

The Landlord submitted that if the 1 Month Notice is upheld, the Landlord will give the Tenant an additional two weeks to move.

I am satisfied that the Notice complies with the requirements of form and content. I find that the Landlord is entitled to an order of possession effective at 1:00 pm on March 15, 2017, after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

#### Conclusion

I grant the Landlord an order of possession effective March 15, 2017. The Tenant must be served with the order of possession. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 22, 2017

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Residential Tenancy Branch